

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

NOV 20 2006

In re: COUNTY OF MONTEREY
INITIATIVE MATTER.

No. 06-15531

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

D.C. Nos. CV-06-1407-JW

CV-06-1730-JW

Northern District of California,
San Jose

WILLIAM MELENDEZ; et al.,

Plaintiffs - Appellants,

v.

ORDER

ROSARIO MADRIGAL; et al.,

Plaintiffs - Appellees,

COUNTY OF MONTEREY, a
governmental corporation formed under
the laws of the State of California; et al.,

Defendants - Appellees.

FILED
2006 NOV 22 P 7:00
RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

Before: LEAVY, GOULD and CLIFTON, Circuit Judges.

The request of plaintiffs-appellees for judicial notice is granted. Appellants' opposed motion for remand to the district court is granted as follows. The district court's March 23, 2006 order and declaratory judgment are vacated. This appeal is remanded to the district court for further consideration in light of this court's *en banc* decision in *Padilla v. Lever*, 463 F.3d 1046 (9th Cir. 2006).

The Clerk shall issue the mandate forthwith.

VACATED and REMANDED.

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A TRUE COPY
CATHY A. CATTERSON
Clerk of Court
ATTEST
NOV 20 2006
by: *Brendy Brown*
Deputy Clerk